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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,805	03/23/2005	Uwc Klatt	449122080100	9152
29177	7590	12/10/2007	EXAMINER	
BELL, BOYD & LLOYD, LLP			ZECHER, MICHAEL R	
P.O. BOX 1135			ART UNIT	PAPER NUMBER
CHICAGO, IL 60690			3691	
			MAIL DATE	DELIVERY MODE
			12/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/528,805	KLATT ET AL.
	Examiner	Art Unit
	Michael R. Zecher	3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 23 March 2005.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-8 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 23 March 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date 3/23/2005.

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## **DETAILED ACTION**

1. The following is the first, non-final Office Action on the merits. The preliminary amendment received on March 3, 2005, has been entered. **Claims 1-8** are pending.

### ***Priority***

2. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d), a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e).

Failure to provide a certified translation may result in no benefit being accorded for the non-English application.

### ***Specification***

3. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, 'The

disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

4. The abstract of the disclosure is objected to because the front page of the WO 2004/029824 document cannot be accepted as an abstract. See preceding guidelines. Correction is required. See MPEP § 608.01(b).

***Claim Objections***

5. **Claims 1-8** are objected to because of the following informalities: the preamble does not include an appropriate preamble phrase (i.e. comprising, consisting of, consisting essentially of, etc.). The phrase "...characterized in that..." is not an appropriate way to conclude a preamble. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1-5** are rejected under 35 U.S.C. 102(e) as being anticipated by Athing et al. (U.S. 5,987,498)

**As per claim 1**, Athing et al. teaches a method for paying a user fee proposed by a service provider via a terminal (PC) of a user, in which, for the use of the service, a fee is determined by a payment server and the deduction of the payment from a credit

account (prepaid server, billing center) of the user is initiated (See figure 3 & 6, and column 2, lines 39-64), characterized in that,

- a) at the time at which the service is requested a time for execution of the service can be defined by the service user (See column 13, lines 5-23),
- b) the fee is deducted depending on the execution of time (See column 13, lines 5-23).

**As per claim 2**, Athing et al. teaches at the time of the request, a fee amount arising at the time of execution is determined and after determination of the execution time the deduction of the fee is initiated at the request time (See column 13, lines 5-23).

**As per claim 3**, Athing et al. teaches after the execution of time is determined the deduction of the fee at the execution time is initiated (See column 13, lines 5-23).

**As per claim 4**, Athing et al. teaches at the time of the request, the level of fee arising at the execution time is determined (See column 13, lines 5-23).

**As per claim 5**, Athing et al. teaches:

- a) at the time of the request, before the execution time is determined, at least a first data request is sent from the terminal (PC) to the payment server (See figure 3 & 6, and column 2, lines 39-64), with the service request message containing the execution time as well as parameters identifying the service (See column 5, lines 4-24),
- b) the payment server initiates a rating of the level of fee based on the execution time and/or the parameters (See column 13, lines 5-23),

c) the level of fee determined is transmitted to the terminal transmitting and displayed to the service user with a request to enter a confirmation (See column 8, lines 8-21),

d) with a confirmation on the part of the user of the execution time is defined and this is transmitted to the payment server (See column 5, lines 42-57),

e) the payment server attempts at the execution time to deduct the fee from the user's credit (See column 5, lines 42-57),

f) if the attempt is successful the provision of the service is released by the service provider (See column 10, lines 36-46).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. **Claims 6 & 7** are rejected under 35 U.S.C. 103(a) as being unpatentable over Athing et al. (U.S. 5,987,498), and further in view of Boardman et al. (U.S. 6,456,986).

**As per claim 6**, Athing et al. does not expressly disclose the payment server rates the level of the fee by using a rating server taking into account at least one tariff model.

Boardman et al. discloses a billing system that selects and executes plans to rate an event (See abstract).

Both Athing et al. and Boardman et al. disclose systems for charging fees based on services rendered. Boardman discloses using a tariff model to calculate an appropriate price plan (See column 4, lines 28-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Athing et al. to include a tariff model in order to determine the appropriate fee as taught by Boardman et al. in order to achieve the predictable result of charging the correct fee, including tax.

**As per claim 7**, Athing et al. does not expressly disclose enabling an account to be taken of the tariff model, at least one tariff table is administered by the rating server.

Boardman discloses using a tariff model to calculate an appropriate price plan (See column 4, lines 28-47). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Athing et al. to include a tariff model in order to determine the appropriate fee as taught by Boardman et al. in order to achieve the predictable result of charging the correct fee, including tax.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hardy (U.S. 6,438,601) discloses a method and system for using caller pays service for single use and short term access to internet subscription services.

Egendor (U.S. 6,411,940) discloses an internet billing method.

Egendor (U.S. 6,351,739) discloses an internet billing method.

Egendor (U.S. 6,188,994) discloses an internet billing method.

Mansey et al. (U.S. 6,023,499) discloses a real time billing via the internet for advanced intelligent network services.

Egendor (U.S. 5,794,221) discloses an internet billing method.

Hultgren (U.S. 6,868,391) discloses a tele/datacommunications payment method and apparatus.

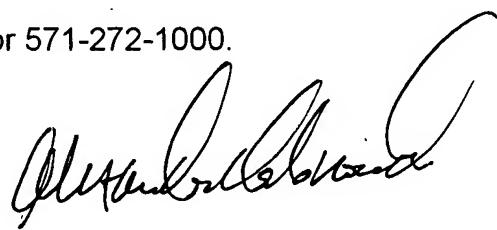
Kastlewicz et al. (U.S. 2004/0147245) discloses a method for deducting for services provided in a computer network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael R. Zecher whose telephone number is 571-270-3032. The examiner can normally be reached on M-F 7:30-5:00 alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MRZ



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SUPERVISORY PATENT EXAMINER